IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 798 of 2005

Between:

M. Srinivasa Reddy, S/o. M. Venkata Reddy,
H.No.2-1-65, Pragathinagar, Peddapalli, Karimnagar District.

... PETITIONER

AND

1 The Government of A.P., rep. by its Secretary, Irrigation &

Command Area Development, Secretariat, Bldgs., Hyderabad.
2 The Superintending Engineer (In-charge), Nagarjunasagar

Left Canal Circle, Miryalaguda, Nalgonda District.
3 The Executive Engineer, N.S.C. Division, Miryalaguda,

Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing 2nd call vide Tender Notification No.5/04-05 dt. 20.01.2005 as invalid, illegal and misuse of powers, Further order to finalise the tenders as per the notification dt. 07.01.2005 and award the works to execute the same in terms of said notification declaring that petitioner is entitled for execute the works and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.P.SRINIVASULU

Counsel for the Respondents: GP FOR IRRIGATION & COMM. AREA DEV.

The Court at the admission stage made the following :

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O R D E R:

The Executive Engineer, Nagarjunasagar Canal Division, Miryalaguda, Nalgonda District, the third respondent, issued a tender notice dated 22.12.2004, inviting tenders for execution of maintenance works of the Nagarjunasagar Canal. The work was estimated at Rs.10,72,000/-. The petitioner responded to the same. The last date for submission of tenders was stipulated as 31.12.2004, and thereafter, it was extended up to 6.01.2005. However, the said tender was cancelled.

The third respondent issued another tender notice dated 7.01.2005. The same work was divided into three bits. Petitioner and several others submitted their tenders, in response to this tender notice. Petitioner contends that when the tenders were opened, it emerged that, for each work, there were only three tenders, and out of them, two were submitted in unsealed covers. He states that his tenders alone for the three works were valid, and despite the same, they were not accepted. He alleges that instead of accepting his tenders, the respondents have issued a third tender notice dated 20.01.2005. He challenges the action of the respondents.

In the counter affidavit filed on behalf of the respondents, it is stated that in response to the tender notice dated 22.12.2004, only two tenders, that too by persons without the basic qualifications, were received. Even after the date was extended, one more tender submitted by an unqualified person was received, and in that view of the matter, the second tender notice was issued. The allegation of the petitioner that in response to the second tender notice, only three tenders were received in respect of each work, and two of them were submitted in unsealed covers, is almost admitted. However, in relation to the tender of the petitioner, it is stated that the relevant enclosures were not annexed and that some of the columns were either wrongly filled or left unfilled.

Heard learned counsel for the petitioner and the learned Government Pleader for Irrigation.

The interference in the matter of tenders in the writ petition is very limited. It is only when there exists any gross procedural violation that the Courts would interfere. The respondents have clearly stated, the circumstances, under which the first tender notice dated 22.12.2004 had to be cancelled. The petitioner does not dispute the fact stated by the respondents in relation to the same. Now, it needs to be seen as to whether the respondents have committed any illegality in not finalizing the bids received, in pursuance of the second tender notice. In the tender box, only three tenders for each work are said to have been found, including those submitted by the petitioner. There is no denial of the fact that the other two tenders were filed in unsealed covers, and there is a basic violation of tender conditions. Therefore, the tender of the petitioner alone remained to be considered.

In the ordinary course of things, tendering authority is vested with the discretion not to act upon solitary tender, because of the reason that hardly there exists any competition in such cases. Be that as it may, the tender of the petitioner was found to be defective in several respects. The Registration Certificate as Contractor, the extract of Income tax Assessment, copy of Sales Tax Clearance certificate, Experience certificate etc, were not enclosed by the petitioner. Several other documents, which were required, were not submitted. It is clearly stated by the respondents that the petitioner quoted certain rates in figures alone; whereas the requirement was that they should be quoted in figures and words. When such is the case, the respondents are not expected to act upon solitary, defective tender of the petitioner. Therefore, no exception can be taken to the action of the respondents in inviting tenders afresh. This Court does not find any basis to interfere in granting relief to the petitioner.

Writ petition is accordingly dismissed. There shall be no order as to costs.

10th February, 2005

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To

1 The Secretary, Irrigation & Command Area Development,

Government of A.P., Secretariat Buildings,

Hyderabad.

2 The Superintending Engineer (In-charge), Nagarjunasagar

Left Canal Circle, Miryalaguda, Nalgonda District.

3 The Executive Engineer, N.S.C. Division, Miryalaguda,

Nalgonda District.

4 Two C.Cs. to the Government Pleader for Irrigation & Comm.

Area Development, High Court buildings, Hyderabad (OUT)

5 Two C.D.copies